

STATE OF MICHIGAN  
IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

SUPREME COURT  
No. 150661

v

COURT OF APPEALS  
No. 318654

STEPHANIE WHITE,  
Defendant-Appellant.

CIRCUIT COURT  
No. 12-037836-FH

\_\_\_\_\_ /

PLAINTIFF-APPELLEE'S SUPPLEMENTAL BRIEF

JOHN A. MCCOLGAN, JR. (P37168)  
PROSECUTING ATTORNEY

Submitted by:

RANDY L. PRICE (P53404)  
Assistant Prosecuting Attorney  
Saginaw County Prosecutor's Office  
Courthouse  
Saginaw, Michigan 48602  
(989)790-5330

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**COUNTERSTATEMENT OF QUESTION INVOLVED**

An arrest warrant allows a police officer to enter a suspect's home when the officer by looking at common sense factors and evaluating the totality of the circumstances believes that the home is the suspect's residence and that the suspect is inside. Officer Green knew Defendant's son had warrants for his arrest. One of the warrants listed Defendant's address as the son's. Also, Green had seen the son at Defendant's home before. Green knocked on Defendant's door and saw the son come to the door and then retreat inside. The officer entered the home to arrest the son, but Defendant physically obstructed the officer from arresting her son. Looking at the evidence in a light most favorable to the prosecution, a rational jury could have found Officer Green was lawfully in Defendant's home when Defendant subsequently resisted, obstructed, opposed, and endangered the officer. Therefore, did the Court of Appeals clearly err affirming Defendant's conviction for resisting and obstructing a police officer?

**Defendant-Appellant says "YES".**

**Plaintiff-Appellee says "NO".**

**Court of Appeals says "NO".**

### KEY TO ABBREVIATIONS

The following abbreviations shall be used in this brief.

“ST” refers to the Sentencing Transcript dated September 23, 2013.

“TT1” to “TT3” refer to Volumes One to Three of the Trial Transcript dated August 7-9, 2013, respectively.

### COUNTERSTATEMENT OF FACTS

On September 5, 2012, Officer Brent Green of the Bridgeport Township Police Department was aware Stephen White, Defendant's son, had five warrants for his arrest. (TT1 68-69, 72; TT2 7, 8, 9) Green reviewed LEIN and verified that Stephen indeed had warrants for his arrest. (TT1 72, 73) Green was familiar with Stephen because of previous contacts in his role as a police officer. (TT1 71-72, 79, 97) LEIN gave Stephen's physical description as a black male, 6' 3" tall, and weighing 230 pounds. The LEIN paperwork was admitted into evidence as Exhibit 1. (TT1 75) The exhibit showed Stephen had two possible addresses: 4576 Hepburn and 2855 Germain. See Appendix A.

The officer went to 2855 Germain Drive. (TT1 69) Green had been to that address before and had contact with Defendant and with Stephen at that address. (TT1 79) Green was in full uniform. (TT1 76) He parked his patrol vehicle a house down from 2855. (TT1 77) Green walked up to the residence's back door. The storm door was open. He looked through the screen door. He saw a white male working on the kitchen sink. Green knocked on the screen door. A black male came to the door along with a young black male. (TT1 78) The former black male fit Stephen's LEIN description, and Green identified this person as Stephen. (TT1 78, 80) Stephen started opening the screen door, looked at Green, said "hold on", turned around, and walked towards the front of the home. (TT1 78-79, 80)

Green grabbed the screen door from closing and told Stephen to stop. (TT1 80, 81) Green could not tell where Stephen was heading. Green entered the home.

He asked the young male where Stephen went. The young male did not respond. (TT1 81) Green walked from the kitchen to the dining room area, losing Stephen. (TT1 81-82) Defendant then appeared. (TT1 81)

Green asked Defendant where Stephen went. Defendant asked the officer why he was looking for Stephen. Green told her that Stephen had several warrants for his arrest. Defendant replied, "I know, what's new." Green walked towards the front door because he last saw Stephen heading towards the front of the house. Defendant yelled at Green that he needed a search warrant. (TT1 83) Green replied he did not need one because he just saw Stephen. (TT1 85) Defendant got in front of Green to prevent him from walking towards the front door. She put her arm up so that he could not go upstairs. Green was unsure if Stephen went upstairs or out the front door, and he did not know if Stephen was going to get a weapon. (TT1 83-84)

Defendant turned in front of Green so that he could not move further into the living room. He pushed through Defendant's arm and told her to sit down. (TT1 84) He told Defendant he was going upstairs to look for Stephen. Defendant got in front of him. (TT1 85) He told her to sit down or he would handcuff her for his and her safety since he did not know where Stephen was or what Stephen's or Defendant's intentions were. (TT1 86) Defendant told him to leave and that she was going to call 911. (TT1 87)

Defendant demanded to see the arrest warrants and approached Green. He advised her to turn around and to place her hands behind her back due to



Defendant becoming angry, and he did not want her assaulting him or getting a weapon. (TT1 87) Green grabbed Defendant's hand. Defendant pulled it away. The officer grabbed her hand again, and Defendant again pulled it away. Defendant told the young male to call 911. Green grabbed Defendant and pinned her to the wall. He handcuffed Defendant's left hand. Defendant tried to pull that hand away and to spin around, but Green was able to get her right hand cuffed. (TT1 88) Defendant told Green that Stephen had left out the front door. (TT1 93) Green then escorted Defendant to the patrol car and placed her in the back seat. (TT1 88) Green called in a canine unit who checked the upstairs. Stephen was not there. The dog tracked a scent out the front door but the track from there was unsuccessful. (TT1 89)

In the back of the patrol car, Green told Defendant that he arrested her for interfering with his investigation and for causing a safety concern. He further told her the warrants flagged Stephen with violent tendencies. (TT1 89-90) See Appendix A. Defendant's young son told Green that Stephen had left out the front door. (TT1 97-98) Green offered Defendant that he would not take her to jail if she called 911 when Stephen returned, but he was going to seek an arrest warrant for her for resisting and obstructing him. (TT1 89-90) Defendant agreed to the deal; so, Green released her and left. (TT1 90)

Jareth Glyn was the white male working on the kitchen sink. When he arrived at the home, Defendant, a tall black male, and a young child were present. (TT1 103, 104) About 45 minutes later, Glyn heard a knock at the door. The young

child answered it. (TT1 105) The officer walked into the dining room. Defendant stepped in front of the officer and talked about a warrant. The officer told Defendant he did not need a warrant because he just saw the person whom he was seeking move through the house. (TT1 105-106) Glyn believed Defendant did not let the officer pass. (TT1 106-107) Glyn heard scuffling and then saw the officer leading Defendant away in handcuffs. (TT1 107) Glyn did not hear the officer go upstairs. (TT1 109)

Armani White was the young child in the home. He saw Officer Green come to the door. Armani went upstairs and told Defendant. She told him to open the door. Armani opened the door, and Green entered. (TT1 115) Green asked if Stephen was there because he was just chasing him and just saw him running out the front door. Armani said no because Stephen had left 30 minutes before the officer's arrival. (TT1 115-116, 117, 120) Defendant told the officer that he could not go upstairs. Green ignored her and looked in Defendant's bedroom. (TT1 116) The officer came from downstairs and asked if they had a basement. Defendant told him he was not searching the basement. Green then told Defendant she was under arrest. (TT1 116-117) He shoved her into the wall, handcuffed her, and escorted her outside. (TT1 118)

Some time after, while at school, Armani spoke with the police about the incident. (TT1 122) The recording of the interview was played for the jury, and Armani remembered the conversation and that he had told the truth during that interview. (TT1 127, 134) At that interview, Armani said Stephen had come to the

door and said "hold up". His brother then walked out the front door at a fast pace. (TT1 129) Armani knew that Stephen had warrants for his arrest. (TT1 133)

Defendant testified she lived at 2855 Germain Drive. (TT2 4) She was upstairs when Armani told her the police were at the door. (TT2 10) She encountered Officer Green in her living room, asking him why he was in her house. (TT2 7, 8, 10-11) Green yelled he was looking for Stephen because he had warrants and that he had chased Stephen into the house. (TT2 7) Defendant was familiar with Stephen's run-ins with the law and that some of those incidents were violent, and she knew Stephen always had warrants for his arrest. (TT2 16, 18) On September 5, 2012, Stephen had been at the house earlier, but he was not currently there. (TT2 8, 19) Defendant asked Green to see the warrant. (TT2 11) Green opened the front door. She repeatedly told him that he needed a warrant to be at her house. Green said he did not need one. She stood behind the officer; so, she could not have prevented him from getting to the front door. (TT2 9) Green went upstairs. (TT2 13) Defendant put up her arm to prevent the officer from going upstairs. (TT2 26-27) Green looked in her bedroom. He returned to the living room and asked her if she had a basement. She forbade him from searching there. (TT2 13) The officer told her she was going to jail and handcuffed her. He pushed her to the wall. (TT2 13-14) Defendant did not resist. (TT2 27) She told Armani to call 911 because Green was assaulting her. (TT2 13-14, 15)

A jury convicted Defendant of resisting and obstructing a police officer, contrary to MCL 750.81d(1). (TT3 47) She was sentenced by the Honorable Robert

L. Kaczmarek, Tenth Circuit Judge, to 18 months of probation with conditions. (ST 4-5) Defendant appealed her conviction and sentence to the Court of Appeals. In an unpublished opinion, her conviction and sentence were affirmed. *People v White*, unpublished opinion per curiam of the Court of Appeals, issued October 21, 2014 (Docket No. 318654), p 5. See Appendix B. The Court of Appeals found:

Viewing this evidence in the light most favorable to the prosecutor, we conclude that a rational juror could find that Officer Green had reason to believe that Stephen White lived at the residence because a warrant listed 2855 Germain Drive as Stephen White's residence, Officer Green had previously interacted with Stephen White at Germain Drive, and Officer Green saw Stephen White in the home. A rational juror could also find that Officer Green had reason to believe Stephen White was currently in the home because Officer Green saw him through the home's screen door.

Accordingly, viewing the evidence in the light most favorable to the prosecutor, we conclude that sufficient evidence supported Stephanie White's resisting and obstructing conviction. [*Id.* at 4.]

Defendant then filed with this Court an application for leave to appeal the Court of Appeals' decision. This Court ordered the parties to file supplemental briefs "addressing whether there was sufficient evidence presented at trial to support a determination that the arresting officer was lawfully in the defendant's house when she resisted or obstructed his attempts to arrest her son." *People v White*, \_\_\_ Mich \_\_\_, 863 NW2d 333 (2015).

## ARGUMENT

An arrest warrant allows a police officer to enter a suspect's home when the officer by looking at common sense factors and evaluating the totality of the circumstances believes that the home is the suspect's residence and that the suspect is inside. Officer Green knew Defendant's son had warrants for his arrest. One of the warrants listed Defendant's address as the son's. Also, Green had seen the son at Defendant's home before. Green knocked on Defendant's door and saw the son come to the door and then retreat inside. The officer entered the home to arrest the son, but Defendant physically obstructed the officer from arresting her son. Looking at the evidence in a light most favorable to the prosecution, a rational jury could have found Officer Green was lawfully in Defendant's home when Defendant subsequently resisted, obstructed, opposed, and endangered the officer. Therefore, the Court of Appeals did not clearly err affirming Defendant's conviction for resisting and obstructing a police officer.

### A. INTRODUCTION

Defendant contends her Fourth Amendment rights were violated because the officer entered her home without a search warrant. While an arrest warrant gives an officer authority to arrest a suspect in the suspect's home, it does not give the officer authority to arrest the suspect in a third party's home as a search warrant is required. However, in this case, the officer reasonably believed Defendant's son lived at Defendant's address, and the officer saw Defendant's son at the home. Therefore, the officer was lawful in entering Defendant's home to arrest her son, and the officer was not required to acquire a search warrant to enter Defendant's home to make the arrest.

### B. STANDARD OF REVIEW

"In determining whether sufficient evidence exists to sustain a conviction, this Court reviews the evidence in the light most favorable to the prosecution, and

considers whether there was sufficient evidence to justify a rational trier of fact in finding guilt beyond a reasonable doubt.” *People v Harris*, 495 Mich 120, 126; 845 NW2d 477 (2014) (footnote omitted). The Court will not interfere with the jury’s role of determining the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 516; 489 NW2d 748 (1992), amended in part 441 Mich 1201 (1992). The jury, not the appellate court, determines what inferences may be fairly drawn from the evidence and the weight to be accorded those inferences. *People v Flick*, 487 Mich 1, 24-25; 790 NW2d 295 (2010).

### C. THE PEOPLE’S ARGUMENT

“[A]n arrest warrant alone is not sufficient authority for entry into the home of a third party to arrest the subject of an arrest warrant.” *People v Oliver*, 417 Mich 366, 376; 338 NW2d 167 (1983), citing *Steagald v United States*, 451 US 204; 101 S Ct 1642; 68 L Ed 2d 38 (1981). However, an arrest warrant does allow an officer inside a suspect’s home when the officer has reason to believe the suspect is inside. *Payton v New York*, 445 US 573, 603; 100 S Ct 1371; 63 L Ed 2d 639 (1980); *City of Troy v Ohlinger*, 438 Mich 477, 485 n 8; 475 NW2d 54 (1991). To determine whether a police officer’s entry into a home to execute an arrest warrant is lawful, courts consider “(1) whether there is reason to believe that the location is the defendant’s residence, and (2) whether or not there was a ‘reasonable belief’ that he would be home.” *United States v Hill*, 649 F3d 258, 262 (CA 4, 2011).<sup>1</sup>

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<sup>1</sup> See also *United States v Graham*, 553 F3d 6, 13 (CA 1, 2009); *El Bey v Roop*, 530 F3d 407, 416-417 (CA 6, 2008); *United States v Veal*, 453 F3d 164, 167 (CA 3, 2006); *United States v Thomas*, 429 F3d 282, 286 (DC CA, 2005); *United States v Powell*,

“Reasonable belief is established by looking at common sense factors and evaluating the totality of the circumstances.” *United States v Hardin*, 539 F3d 404, 420 (CA 6, 2008), quoting *United States v Pruitt*, 458 F3d 477, 482 (CA 6, 2006), cert den 549 US 1283 (2007). See also *United States v Glover*, 746 F3d 369, 373 (CA 8, 2014). Where probable cause also requires courts to look to the “totality of the circumstances” known to the officer at the time of the entry, *Illinois v Gates*, 462 US 213, 230; 103 S Ct 2317; 76 L Ed 2d 527 (1983),

the “reasonable belief” standard is different and less demanding than the “probable cause” standard. While “probable cause” is a “fair probability,” “reasonable belief” is an actual belief, rationally drawn through a common sense evaluation of the circumstances presented. [*United States v Shaw*, 707 F3d 666, 672 (CA 6, 2013) (citations omitted).]<sup>2</sup>

Officer Green reasonably believed 2855 Germain Drive was Stephen White’s home. The officer had previous contact with Stephen at that address and had previous contacts with Defendant when Stephen “was acting up”. (TT1 79) Also, the arrest warrant listed that address as Stephen’s, allowing the officer to rely on 2855 Germain Drive as being Defendant’s address. See MCL 764.15(1)(e) and *United States v Buckner*, 717 F2d 297, 301 (CA 6, 1983). Further, Officer Green had reason to believe Stephen was inside the home. The officer had encountered Stephen at the home in the past, and Stephen’s presence in the home was confirmed when Stephen answered the officer’s knocks. (TT1 78-79, 80) Compare *United*

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379 F3d 520, 523 (CA 8, 2004); *United States v Bervaldi*, 226 F3d 1256, 1262 (CA 11, 2000); *Valdez v McPheters*, 172 F3d 1220, 1224-1225, 1227 n 5 (CA 10, 1999).

<sup>2</sup> Contrast this with reasonable suspicion, which is more than just a mere hunch but less than probable cause. *People v Champion*, 452 Mich 92, 98; 549 NW2d 849 (1996).



*States v Blevins*, 755 F3d 312, 325 (CA 5, 2014), and *United States v Taylor*, 666 F3d 406, 409 (CA 6, 2012). The officer's belief was also confirmed when he was told by Defendant and her younger son that Stephen had just left through the front door and when a canine tracking unit tracked Stephen's scent out the front door. (TT1 88-89, 93, 97-98) Therefore, Green had "reason to believe" Stephen was inside the residence at the time of entry under *Payton*.

Because Officer Green was lawfully inside Defendant's home, Defendant had no legal right to resist, obstruct, oppose or endanger him.<sup>3</sup>

The elements of resisting or obstructing a police officer under MCL 750.81d(1) are: (1) the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer, and (2) the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.

Additionally, . . . the prosecution must establish that the officers' actions were lawful as an element of resisting or obstructing a police officer under MCL 750.81d. [*People v Quinn*, 305 Mich App 484, 491; 853 NW2d 383 (2014) (internal quotations and citations omitted).]

Defendant indeed resisted, obstructed, opposed or endangered Officer Green. He arrived at Defendant's home in full uniform. (TT1 76) He told Defendant that he was there to arrest her son, and Defendant was aware of the outstanding warrants. (TT1 83) Defendant then prevented the officer from arresting Stephen. She placed herself in front of the officer and blocked his path to the upstairs by

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<sup>3</sup> *People v Moreno*, 491 Mich 38, 52; 814 NW2d 624 (2012), reestablished the common-law rule that a person may resist an unlawful arrest as an element of MCL 750.81d. However, when the Legislature replaced MCL 750.479 with MCL 750.81d, using "a police officer performing his or her duties" in the statute, it abrogated the common-law rule. Therefore, the People ask this Court to overrule *Moreno* and hold a defendant does not have the right to resist an unlawful arrest.



putting her arm up. (TT1 83, 85) She turned in front of the officer so that he could not move in the living room. (TT1 84) Officer Green told her to sit down, but she ignored him. (TT1 84, 86) Because Defendant was becoming angry and because the officer feared for his own safety, he attempted to arrest her, but Defendant resisted by pulling away from him and by trying to spin around. (TT1 87, 88)

#### D. CONCLUSION

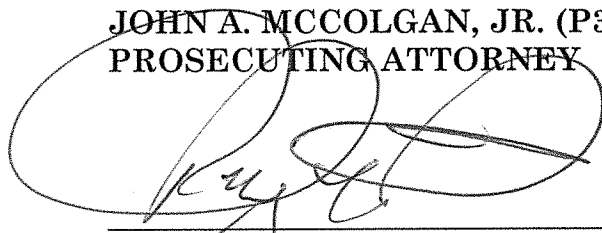
The evidence was sufficient to show Officer Green was lawfully in Defendant's home when Defendant resisted and obstructed the officer. The People thus ask this Honorable Court to find the Court of Appeals did not clearly err in finding the trial evidence was sufficient to show Officer Green was lawfully in Defendant's house when she resisted and obstructed him when he was attempting to arrest her son.

**SUMMARY AND RELIEF SOUGHT**

WHEREFORE, the People respectfully request that this Honorable Court deny Defendant-Appellant's application for leave to appeal the judgment of the Court of Appeals.

Respectfully submitted,

**JOHN A. MCCOLGAN, JR. (P37168)**  
**PROSECUTING ATTORNEY**

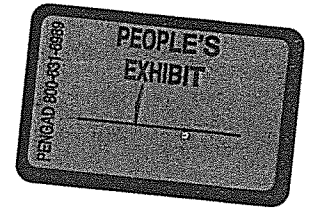
A handwritten signature in black ink, appearing to read 'Randy L. Price', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke.

Dated: July 14, 2015

**RANDY L. PRICE (P53404)**  
Assistant Prosecuting Attorney  
Saginaw County Prosecutor's Office  
Courthouse  
Saginaw, MI 48602  
(989) 790-5330

## APPENDIX A

### Exhibit 1



WARRANTS:

LEIN 7037 8476 09/05/12 2020 SCCDCOMP2.  
MI7386300  
RE: WHITE/STEPHEN/DEMARSHA/ UM 02/27/1991  
FOR: BRENT GREEN/BP  
OPR: BRENT GREEN

CAUTION-CAUTION-:VIOLENT TENDENCIES

NAM:WHITE/STEPHEN/DEMARSHA/ DOB:02/27/1991  
RAC:BLACK SEX:MALE HGT:603 WGT:235  
HAI:BLACK EYE:BROWN OLN:W300-777-139-151 OLS:MI SOC:363-13-1676  
FBI:657904KC4 PRN:670702  
SID:2579534X SMT:TAT L ARM  
ADDNL SMT:TAT R ARM  
ADD:4576 HEPBURN ST SAGINAW MI 48603 POB:MI

OFF:CRIMINAL BENCH FOR FAILURE TO APPEAR - SEE MIS SEE MIS  
OOC:TRESPASSING  
OCA:11-8930 DOW:03/15/2012  
COURTORI:MI730035J-CT 70TH DIST SAGINAW  
CRTDOCKETNO:11-008930-OM  
OCG:TRESPASSING

PICKUP:WILL PICKUP WITHIN 50 MILES  
BOND:\$ 5000 CASH OR SURETY  
REMARKS:ORIG CHARGE CRIMINAL TRESPASS-OR 10% BOND  
ALIAS NAME:FONZ/X//  
ALIAS NAME:WHITE/STEPHEN/DEMARSHJA/

WARRANT CONFIRMED AND VALID - FOR BOND, PICKUP, AND COURT  
APPEARANCE INFORMATION CONTACT MI7371700-PD SAGINAW

ENTERED LEIN:03/15/2012 1413 HRS  
MODIFIED LEIN:03/15/2012 1554 HRS  
SYSIDNO:42910568

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CAUTION-CAUTION-:VIOLENT TENDENCIES

NAM:WHITE/STEPHEN/DEMARSHA/ DOB:02/27/1991  
RAC:BLACK SEX:MALE HGT:603 WGT:235  
HAI:BLACK EYE:BROWN SOC:363-13-1676  
FBI:657904KC4 PRN:670702  
SID:2579534X SMT:TAT L ARM  
ADDNL SMT:TAT R ARM  
ADD:4576 HEPBURN SAGINAW MI 48603 POB:MI

OFF:CRIMINAL BENCH FOR FAILURE TO APPEAR - SEE MIS SEE MIS  
OOC:TRESPASSING  
OCA:11-9134 DOW:03/15/2012  
COURTORI:MI730035J-CT 70TH DIST SAGINAW  
CRTDOCKETNO:11-009173-OM  
OCG:TRESPASSING  
PICKUP:WILL PICKUP WITHIN 50 MILES  
BOND:\$ 5000 CASH OR SURETY  
REMARKS:ORIG CHARGE CRIMINAL TRESPASS-OR 10% BOND  
ALIAS NAME:FONZ/X//  
ALIAS NAME:WHITE/STEPHEN/DEMARSHJA/

WARRANT CONFIRMED AND VALID - FOR BOND, PICKUP, AND COURT  
APPEARANCE INFORMATION CONTACT MI7371700-PD SAGINAW

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MODIFIED LEIN:03/15/2012 1555 HRS  
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CAUTION-CAUTION-:VIOLENT TENDENCIES

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HAI:BLACK EYE:BROWN OLN:W300-777-139-151 OLS:MI SOC:363-13-1676  
FBI:657904KC4 PRN:670702  
SID:2579534X SMT:TAT L ARM  
ADDNL SMT:TAT R ARM  
ADD:4576 HEPBURN SAGINAW MI 48603 POB:MI

OFF:CRIMINAL BENCH FOR FAILURE TO APPEAR - SEE MIS SEE MIS  
OOC:TRESPASSING  
OCA:11-9362 DOW:03/15/2012  
COURTORI:MI730035J-CT 70TH DIST SAGINAW  
CRTDOCKETNO:11-009466-OM  
OCG:TRESPASSING  
PICKUP:WILL PICKUP WITHIN 50 MILES  
BOND:\$ 5000 CASH OR SURETY  
REMARKS:ORIG CHARGE CRIMINAL TRESPASS-OR 10% BOND  
ALIAS NAME:FONZ/X//  
ALIAS NAME:WHITE/STEPHEN/DEMARSHJA/

WARRANT CONFIRMED AND VALID - FOR BOND, PICKUP, AND COURT  
APPEARANCE INFORMATION CONTACT MI7371700-PD SAGINAW

ENTERED LEIN:03/15/2012 1426 HRS  
MODIFIED LEIN:03/15/2012 1558 HRS  
SYSIDNO:42910668

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NAM:WHITE/STEPHEN/DEMARSHA/ DOB:02/27/1991  
RAC:BLACK SEX:MALE HGT:603 WGT:235  
HAI:BLACK EYE:BROWN OLN:W300-777-139-151 OLS:MI SOC:363-13-1676  
CTN:731200412501  
ADD:2855 GERMAIN SAGINAW MI 48603

OFF:MISDEMEANOR FOR AGGRAV ASSLT - FAMILY-STGARM  
CIT:750.813 (DOMESTIC VIOLENCE - SECOND OFFENSE NOTICE)  
OCA:470-12 DOW:08/03/2012  
COURTORI:MI730035J-CT 70TH DIST SAGINAW  
CRTDOCKETNO:12-004350-SM  
EXTRADITE:YES PICKUP:WILL PICKUP STATEWIDE  
BOND:\$ 5000 CASH OR SURETY  
REMARKS:DOMESTIC VIO-2ND OFFENSE/OR 10% BOND

WARRANT CONFIRMED AND VALID - FOR BOND, PICKUP, AND COURT  
APPEARANCE INFORMATION CONTACT MI7386300-PD BRIDGEPORT TWP

ENTERED LEIN:08/03/2012 1549 HRS  
FORWARDED TO NCIC NIC:W075596165  
SYSIDNO:43185003

\*\*\*\*\*

NAM:WHITE/STEPHEN/DEMARSHA/ DOB:02/27/1991  
RAC:BLACK SEX:MALE HGT:603 WGT:225  
HAI:BLACK EYE:BROWN OLN:W300-777-139-151 OLS:MI  
ADD:4576 HEPBURN PL SAGINAW MI 48603

OFF:CRIMINAL BENCH FOR CONTEMPT OF COURT FTA TO PSI  
OCA:12-10592 DOW:08/13/2012  
COURTORI:MI090015J-CT 18TH CIR BAY CITY  
CRTDOCKETNO:12-10592  
PICKUP:WILL PICKUP STATEWIDE  
REMARKS:FAILED TO REPORT TO PSI FOR SIGNUP, VIOL BOND CONDITIONS NO  
BOND

ALIAS NAME:LONG/JOHN/DEMARSHA/  
MI0910900-SO BAY CO  
ENTERED LEIN:08/19/2012 1156 HRS  
SYSIDNO:43211177  
IMMED CONFIRM WITH MI0910900-SO BAY CO

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## APPENDIX B

*People v White*, unpublished opinion per curiam of the Court of Appeals, issued October 21, 2014 (Docket No. 318654)



STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEPHANIE WHITE,

Defendant-Appellant.

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UNPUBLISHED

October 21, 2014

No. 318654

Saginaw Circuit Court

LC No. 12-037836-FH

Before: METER, P.J., and WHITBECK and RIORDAN, JJ.

PER CURIAM.

Defendant, Stephanie White, appeals as of right her conviction, following a jury trial, of resisting or obstructing a police officer.<sup>1</sup> The trial court sentenced Stephanie White to serve 18 months' probation. Because the police officer lawfully entered the home to arrest Stephen White, Stephanie White's son, we affirm.

I. FACTS

Bridgeport Township Police Officer Brent Green testified that, on September 5, 2012, he arrived at 2855 Germain Drive. According to Officer Green, Stephen White had five outstanding arrest warrants, one of which identified 2855 Germain Drive as Stephen White's address. Officer Green testified that he had previously been to 2855 at least one other time when Stephen White was there, and that Stephanie White had called "a couple times when Stephen was acting up and we talked." Officer Green testified that he accessed and reviewed the outstanding arrest warrants and Stephen White's physical description in the Law Enforcement Information Network (LEIN) before arriving at the home.

Officer Green testified that he parked one house away from 2855 Germain Drive and approached the home's back door. According to Officer Green, the storm door was open but the screen door was closed. Through the screen door, he saw three people—a man working on the sink, Stephen White, and Stephanie White's thirteen-year-old son. Stephen White started to open the back door, then said "hold up" and moved quickly toward the front of the home.

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<sup>1</sup> MCL 750.81d(1).

Officer Green stopped the door from closing and entered the home. He called for Stephen White to stop and asked the thirteen-year-old where Stephen White had gone.

Jareth Glyn testified that he had been working on the kitchen sink for about 45 minutes when Officer Green arrived. According to Glyn, the last time he saw Stephen White was shortly before Officer Green arrived. Glyn testified that Officer Green knocked on the door and the thirteen-year-old went to the door.

The thirteen-year-old testified that when he saw Officer Green approaching, he called upstairs to Stephanie White, who told him to open the door. According to the thirteen-year-old, Officer Green came inside and said that he was chasing Stephen White. At trial, the thirteen-year-old testified that Stephen White had left about 30 minutes before. However, he also testified that he told police officers the truth during an interview four days after the incident, when he stated that Stephen White went to the back door, said "hold up," and then walked quickly out the front door.

Stephanie White testified that she came downstairs, saw Officer Green in her dining room, and asked him what he was doing there. According to Stephanie White, she did not prevent Officer Green from going to the front door and she was behind Officer Green. She did not prevent Officer Green from searching the home. However, she did repeatedly state that Officer Green could not search her house without a warrant, and she put her hand out as "body language . . . like pointing towards that way." She said that she did not attempt to physically block Officer Green.

According to Officer Green, he told Stephanie White that Stephen White had several outstanding arrest warrants. Officer Green attempted to continue through the house to look for Stephen White, but Stephanie White "kind of put her arm up and kind of turned in front of me so that I couldn't progress." Stephanie White told Officer Green that he needed a search warrant to be in her home, and Officer Green informed her that he did not need a warrant because he had seen Stephen White. Stephanie White told Officer Green that Stephen White was not in the home and that he should leave. Officer Green told Stephanie White that he would leave after he confirmed that Stephen White was not there.

According to Officer Green, Stephanie White continued to "get in front of [him]" and yell that he needed a search warrant. Officer Green told Stephanie White that if she did not sit down, he would handcuff her for his safety. Stephanie White continued to loudly demand a search warrant and, because he was concerned for his safety and because "she was becoming irate," he attempted to handcuff Stephanie White. Stephanie White resisted by pulling one of her wrists away, and Officer Green had to pin her against the wall to handcuff her.

The prosecutor charged Stephanie White with resisting or obstructing a police officer. The jury found Stephanie White guilty.

## II. SUFFICIENCY OF THE EVIDENCE

### A. STANDARD OF REVIEW

A claim that the evidence was insufficient to convict a defendant invokes that defendant's constitutional right to due process of law.<sup>2</sup> Thus, this Court reviews de novo a defendant's challenge to the sufficiency of the evidence supporting his or her conviction.<sup>3</sup> We review the evidence in a light most favorable to the prosecutor to determine whether a rational trier of fact could find that the prosecutor proved crime's elements beyond a reasonable doubt.<sup>4</sup>

### B. LEGAL STANDARDS

MCL 750.81d(1) provides in part that a person who "... obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony . . . ." The elements of resisting or obstructing are that

(1) the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer, and (2) the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.<sup>[5]</sup>

MCL 750.81d(1) does not abrogate a defendant's common-law right to resist an unlawful arrest.<sup>6</sup> The lawfulness of the officer's arrest is an element that the prosecutor must prove at trial.<sup>7</sup> Thus, though the lawfulness of an officer's arrest is normally a question of law for the judge, it is a question of fact for the jury in a resisting and obstructing case.<sup>8</sup>

Before making an arrest, an officer generally obtains an arrest warrant from a magistrate on a showing of probable cause.<sup>9</sup> A validly issued arrest warrant gives the officer authority to enter the suspect's residence in order to arrest the suspect, if the officer has reason to believe that

<sup>2</sup> *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992); *In re Winship*, 397 US 358, 364; 90 S Ct 1068; 25 L Ed 2d 368 (1970).

<sup>3</sup> *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011).

<sup>4</sup> *Id.*; *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012).

<sup>5</sup> *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010).

<sup>6</sup> *People v Moreno*, 491 Mich 38, 52; 814 NW2d 624 (2012).

<sup>7</sup> *Id.* at 51-52; *People v Quinn*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW2d \_\_\_ (2014); slip op at 2-3.

<sup>8</sup> *Id.*; *People v Dalton*, 155 Mich App 591, 598; 400 NW2d 689 (1986).

<sup>9</sup> *People v Manning*, 243 Mich App 615, 621; 624 NW2d 746 (2000); *Steagald v United States*, 451 US 204, 213; 101 S Ct 1642; 68 L Ed 2d 38 (1981).

the suspect lives at the address and the suspect is currently there.<sup>10</sup> But an officer may not enter a third party's home in order to arrest a suspect without obtaining a search warrant, regardless of whether the officer reasonably believes that the suspect is in the third party's home.<sup>11</sup>

### C. APPLYING THE STANDARDS

Stephanie White contends that there was insufficient evidence for a rational trier of fact to conclude that Officer Green's entry into the home was lawful. Stephanie White contends that Officer Green's entry was unlawful because her home was third party's residence. We disagree.

When reviewing the sufficiency of the evidence, we will not interfere with the trier of fact's role to determine the weight of the evidence or the credibility of the witnesses.<sup>12</sup> Here, four of the five arrest warrants listed Stephen White's address as another location. And witnesses at trial, including Stephanie White and the thirteen-year-old, testified that Stephen White did not actually live at 2855 Germain Drive.

However, this does not negate that one of the warrants *did* indicate that Stephen White's residence was 2855 Germain Drive. Further, Officer Green testified that he had previously interacted with Stephen White at 2855 Germain Drive. Officer Green also testified that when he arrived at 2855 Germain Drive, he saw Stephen White in the home's kitchen through the open screen door.

Viewing this evidence in the light most favorable to the prosecutor, we conclude that a rational juror could find that Officer Green had reason to believe that Stephen White lived at the residence because a warrant listed 2855 Germain Drive as Stephen White's residence, Officer Green had previously interacted with Stephen White at Germain Drive, and Officer Green saw Stephen White in the home. A rational juror could also find that Officer Green had reason to believe Stephen White was currently in the home because Officer Green saw him through the home's screen door.

Accordingly, viewing the evidence in the light most favorable to the prosecutor, we conclude that sufficient evidence supported Stephanie White's resisting and obstructing conviction.

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<sup>10</sup> *Payton v New York*, 445 US 573, 603; 100 S Ct 1371; 63 L Ed 2d 639 (1980).

<sup>11</sup> *Steagald*, 451 US at 213; *Garden City v Stark*, 120 Mich App 350, 351-353; 327 NW2d 474 (1982).

<sup>12</sup> *Wolfe*, 440 Mich at 514-515; *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

### III. JURY INSTRUCTIONS

Stephanie White briefly asserts that the trial court's instruction that Officer Green could rely on LEIN information improperly tainted the jury. We conclude that Stephanie White has waived our review of this issue.

A defendant's waiver intentionally abandons and forfeits appellate review of a claimed deprivation of a right.<sup>13</sup> A defendant may waive his or her challenge to jury instructions.<sup>14</sup> When the trial court asks the party whether it has any objections to the jury instructions and the party responds negatively, it is an affirmative approval of the trial court's instructions.<sup>15</sup>

Here, the trial court twice asked defense counsel whether counsel was satisfied with the jury instructions, and counsel expressed satisfaction with the instructions. Thus, we conclude that counsel waived any challenge to the trial court's jury instructions.

### IV. CONCLUSION

We conclude that the prosecutor presented sufficient evidence of the lawfulness of Officer Green's entry into 2855 Germain Drive. We also conclude that Stephanie White has waived any challenge to the jury instructions.

We affirm.

/s/ Patrick M. Meter  
/s/ William C. Whitbeck  
/s/ Michael J. Riordan

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<sup>13</sup> *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).

<sup>14</sup> *Id.* at 215.

<sup>15</sup> *People v Lueth*, 253 Mich App 670, 688; 660 NW2d 332 (2002).